IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 4290 of 1994

Between:

Jalla Ganga Rao S/o.Sri Sayanna
Moula Ali Hyderabad

... PETITIONER

AND

1 The Joint Collector and Addl. District Magistrate
Nizamabad District NIzamabad
2 The Commissioner of Tribal Welfare Andhra Pradesh
Masab Tank, Hyderabad
3 M/s Hindustan Cables Limited Government of India Undertaking
Moula Ali, Hyderabad rep.by its Managing Director

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the proceedings No.D6/5508/93, Dt.15/02/1994 of the 1st respondent as highly illegal, arbitrary without jurisdiction unjust and violative of principles of natural justice.

Counsel for the Petitioner: MR.G.V.R.S.VARA PRASAD
Counsel for the Respondents No.1 and 2: GP FOR SOCIAL WELFARE
Counsel for Respondent No.3: S.C. for H.C.L.

The Court made the following:

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ORDER:

This Writ Petition is filed, seeking Writ of Mandamus, to declare the order dated 15-2-1994 in proceedings No.D6/5508/93, on the file of the first respondent, as illegal and arbitrary.

The petitioner is working as Engineer in Hindustan Cables Limited, Hyderabad, which is a Government of India undertaking. He entered into service in the year 1975. Initially, the petitioner obtained caste certificate on 14-7-1975 certifying his caste as '*Gond*' , which is notified as Scheduled Tribe, and, claimed benefit in the appointment. Subsequently, proceedings were initiated by the first respondent to cancel the said caste certificate on the allegation that he has wrongly claimed status of Scheduled Tribe, by obtaining false caste certificate and show cause notice was issued in Proceedings No.D6/5508, dated 20-11-1993. In the said show cause notice, reference was made to the report dated 24-10-1993 of the Assistant Collector, Bhodan. Soon after receipt of show notice, on 11-12-1993, the petitioner has addressed a letter requesting to furnish documents including copies of statements recorded in the enquiry conducted by the Assistant Collector, Bhodan. Subsequent to the said representation, a telegram was also sent by his wife intimating that the petitioner was not well, and requested further time for submitting written explanation. Without responding to the request of the petitioner for furnishing documents, the impugned order is passed on the ground that the petitioner deliberately delaying the matter.

In this Writ Petition, it is submitted by the learned Counsel for the petitioner that the impugned order is passed in violation of the principles of natural justice, inasmuch as copy of the enquiry report, on which basis the impugned order is passed, was not furnished to the petitioner. It is further submitted that the enquiring authority has recorded statements behind his back without giving any opportunity, and, even, copies of the said statements were also not furnished, in spite of his representation dated 11-12-1993.

In the counter affidavit filed on behalf of the respondents, while denying the allegations of the petitioner, it is stated that, the petitioner was permitted by Office Memo No.D6/5508/1993, dated 27-12-1993 to peruse the record on 4-1-1994. Further, it is stated that though opportunity was given, the petitioner has failed to submit explanation; in that view of the matter, the impugned order is passed, cancelling the caste certificate.

In the instant case, it is to be seen, though proceedings were initiated, for cancellation of the caste certificate, on the file of the Joint Collector & Additional District Magistrate, Nizamabad, but local enquiry was conducted by the Assistant Collector, Bhodan, and the same is evident from the counter affidavit filed on behalf of the respondents. The very show cause notice was issued referring to the report of the Assistant Collector, Bhodhan, dated 24-10-1993, and, statements of some third parties recorded before the enquiry authority. It is the case of the petitioner that no notice was issued by the Assistant Collector in the enquiry conducted by him, and, statements, which were recorded, are without giving any opportunity to him. If the proceedings for cancellation of caste certificate are initiated based on such enquiry and statements recorded by the enquiry officer, the first respondent ought to have furnished copies of the said enquiry report and statements recorded from third parties, which were asked for by the petitioner. More over, in this case, on receipt of show cause notice, the petitioner has filed representation dated 11-12-1993 requesting to furnish all the documents. In spite of his specific representation, the same were not furnished, but, it is merely stated that memo dated 27-12-1993 was issued permitting the petitioner to peruse the records in the office. The said Memo dated 27-12-1993 will not cure the defect of not furnishing the copies of the enquiry report, which is made basis for passing the impugned order for cancellation of caste certificate. When the petitioner has entered into service in the year 1975, if any order of cancellation is passed, it has far reaching consequences on his employment; as such, the first respondent ought to have given full opportunity before passing the impugned order, for cancellation of the caste certificate. The impugned order, which is passed basing on such enquiry report and statements, which are not furnished to the petitioner, is, therefore, fit to be set aside, inasmuch as the same is passed in violation of the principles of natural justice.

For the foregoing reasons, the impugned order dated 15-2-1994 in proceedings No.D6/5508/93, on the file of the first respondent is liable to be set aside and the same is accordingly set aside.

The Writ Petition is allowed. No order as to costs.

February 03, 2005

Ycr/Msnr.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Third day of February of Two Thousand and Five.

To

1 The Joint Collector and Addl. District Magistrate
Nizamabad District NIzamabad.

2 The Commissioner of Tribal Welfare Andhra Pradesh
Masab Tank, Hyderabad.

3 The Managing Director, M/s Hindustan Cables Limited

Government of India Undertaking, Moula Ali, Hyderabad.

4. 2 CCs to G.P. for Social Welfare, High Court Buildings,

Hyderabad (OUT)

5. 2 C.D. copies.